



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY  
1000 NAVY PENTAGON  
WASHINGTON, DC 20350-1000

SECNAVINST 5430.27B  
OJAG (Code 13)  
22 Dec 2005

SECNAV INSTRUCTION 5430.27B

From: Secretary of the Navy

Subj: RESPONSIBILITY OF THE JUDGE ADVOCATE GENERAL OF THE NAVY  
AND THE STAFF JUDGE ADVOCATE TO THE COMMANDANT OF THE  
MARINE CORPS FOR SUPERVISION AND PROVISION OF CERTAIN  
LEGAL SERVICES

Ref: (a) 10 U.S.C. § 5148  
(b) 10 U.S.C. §§ 826-827  
(c) U.S. Navy Regulations 1990, Article 0331  
(d) JAGINST 5803.1C  
(e) Title 10, United States Code, Chapter 47  
(f) 10 U.S.C. § 1044  
(g) SECNAVINST 5000.34B  
(h) DEPSECDEF Memo 11639-05 of 27 Jun 05

1. Purpose. Pursuant to references (a) through (h), this instruction prescribes the responsibility of the Judge Advocate General of the Navy (JAG) for the supervision of certain legal services in the Department of the Navy (DON), including those performed in the Office of the Judge Advocate General (OJAG), and sets forth the responsibilities of the Staff Judge Advocate to the Commandant of the Marine Corps.

2. Cancellation. SECNAVINST 5430.27A.

3. Supervision of Legal Services. The JAG is the Chief of the Judge Advocate General's Corps (JAGC) and commands OJAG. As the Capability Sponsor for the Navy legal community, the JAG is responsible for building a coherent legal community and determining the best possible allocation of personnel assets.

a. The JAG has primary responsibility for ensuring the ethical and professional practice of law by judge advocates and other covered attorneys. This supervision extends to both active duty and reserve judge advocates in both the Navy and Marine Corps as well as civilian attorneys and uniformed attorneys from other services when they practice under the cognizance of the JAG. Additionally, the JAG supervises the

22 Dec 2005

performance of legal services under the JAG's cognizance throughout the DON.

b. The JAG is responsible for certifying that military trial counsel, military defense counsel and military judges are competent and qualified. Civilian defense counsel who represent an accused must also follow the military rules of professional responsibility.

4. Responsibilities of the JAG. The JAG serves as a Staff Assistant to the Secretary of the Navy (SECNAV) and performs duties relating to legal matters arising in the Department of the Navy as may be assigned him. Additionally, the JAG is responsible for providing and supervising the provision of legal advice and related services throughout the DON in the following areas:

a. Military Justice. The JAG is responsible for the military justice function within the DON. The military justice function includes, but is not limited to, the implementation, execution, management, and oversight of the military criminal justice system at the trial and appellate levels. In performing this function, the JAG has primary responsibility for military justice matters within the Navy, including: inspecting Naval Legal Service Command legal offices; certifying military judges for practice on the bench; certifying trial and defense counsel for practice in military courts-martial; taking action in certain courts-martial if the convening authority fails to do so; receiving records of trial from military courts-martial; establishing and staffing the Navy and Marine Corps Court of Criminal Appeals; and ordering review of certain cases by the Court of Appeals for the Armed Forces;

b. Operational and International Law. The JAG provides legal advice and training on international and operational law issues of interest to the DON. Operational law includes those fundamental principles of international and domestic law that govern U.S. naval operations. Additionally, operational law includes matters of jurisdiction and sovereignty exercised by nations over various parts of the world's oceans; the international legal status and navigational rights of warships and military aircraft; protection of persons and property at sea; and the safeguarding of national interests in the maritime environment. Operational law also includes principles of law of special concern to the naval commander during any period in which U.S. naval forces are engaged in armed conflict;

22 Dec 2005

c. Administrative Law. The JAG provides legal advice on the operation of the DON as a governmental entity including military personnel matters, certain legislative and regulatory matters, associated litigation, homeland security matters, and professional supervision of attorneys practicing under the cognizance of the JAG;

d. Legal Assistance. The JAG is responsible for the provision of personal legal assistance to active duty and reserve military members, their dependents, and retired military members in order to promote military readiness;

e. Civil Law. The JAG provides legal advice on issues including admiralty tort and salvage claims and associated litigation, maritime law, general claims issues involving the Federal Tort Claims Act, Military Claims Act, Medical Care Recovery Act, Personnel Claims Act and Foreign Claims Act, general litigation under the cognizance of the JAG, and national security litigation and intelligence law;

f. Intelligence Oversight. The JAG is jointly responsible with the General Counsel for ensuring that compartmented programs and sensitive activities within DON are conducted in a legal manner. The General Counsel and JAG shall discharge these responsibilities in part as principal members of the Senior Review Board (SRB) and Special Programs Review Group (SPRG), and by designating their deputies as principal members of the Sensitive Activities Review Board (SARB); and

g. Litigation. The JAG is responsible for litigation involving matters under his practice areas.

5. Special Assistant for Legal Service to the Office of the Chief of Naval Operations. The JAG advises and assists the Chief of Naval Operations (CNO) in formulating and implementing policies and initiatives pertaining to the provision of legal services within the Navy.

6. Department of the Defense Representative for Ocean Policy Affairs (REPOPA). The JAG serves as the REPOPA for the Department of Defense. In this capacity, the JAG serves as the central point of contact for analysis of ocean policy matters within the Department of Defense (DOD), monitors trends in ocean law and policy to develop DOD positions to enhance the positive development of ocean and maritime policy, monitors and coordinates the Navy's Freedom of Navigation program, compiles, catalogs and disseminates current information on foreign

22 Dec 2005

maritime claims and developments in ocean law and policy that affect military operations, and serves as an interagency point of contact for coordination of technical matters relating to ocean policy and maritime matters.

7. Relationship of the General Counsel and the JAG. The JAG is independently responsible for providing unfettered legal advice and opinions to the Secretary of the Navy (SECNAV), the CNO, and other officers and officials of the DON. The JAG reports directly to the SECNAV and the CNO. The responsibilities assigned to the General Counsel do not affect determinations required by law to be made by the JAG. The JAG shall also have responsibility for liaison with other departments and agencies of the government in appropriate cases. The JAG will maintain a close working relationship with the General Counsel on matters of common interest, including:

a. Government Ethics and Standards of Conduct. Together with the General Counsel, the JAG provides legal advice on Standards of Conduct and government ethics, including the outside practice of law, post-Government service employment restrictions, interaction with non-federal entities, and the permissible use of government assets and personnel. The JAG serves as the Alternate Designated Agency Ethics Official for the DON. Additionally, the JAG provides Standards of Conduct training, reviews public financial disclosure reports, and reviews and maintains confidential financial disclosure reports filed by uniformed personnel;

b. Environmental Law. Together with the General Counsel, the JAG provides legal advice, assistance, research and representation on laws protecting human health, the environment and historic and cultural resources to the Office of the Assistant Secretary of the Navy (Installations and Environment) and the Office of the Chief of Naval Operations (Environmental Protection, Safety and Occupational Health Division);

c. Litigation within the DON. The JAG keeps the General Counsel informed of the status of all litigation under the JAG's cognizance, including all proposed Navy appeal recommendations to the Department of Justice (DOJ). In appropriate cases, the General Counsel will share responsibility with the JAG for liaison with the Attorney General and the DOJ in connection with such cases; and

d. Civilian Personnel Law. Together with the General Counsel, the JAG shall provide legal services in the field of

22 Dec 2005

civilian personnel law, including labor-management relations and equal employment opportunity matters.

8. Professional Supervision by the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC).

a. The SJA to CMC advises the CMC in military justice, civil and administrative law, operational law, legal assistance matters and any other matters as directed by the SECNAV and CMC. For matters under the cognizance of the SJA to CMC, the SJA to CMC is the legal advisor to Headquarters, Marine Corps, and all other offices of the Marine Corps.

b. The SJA to CMC is the Director, Judge Advocate Division (JAD), and provides supervision and management of the Military Law, International and Operational Law, Research and Civil Law, Legal Assistance, Judge Advocate Support, and Judge Advocate Information, Plans, and Programs branches.

c. The SJA to CMC has direct supervisory authority over all active and reserve judge advocates, civilian attorneys, and legal support personnel assigned to the JAD.

d. The SJA to CMC serves as the occupational field sponsor for all active duty Marine Corps judge advocates and advises the Deputy Commandant, Manpower and Reserve Affairs, regarding which Marine judge advocates are best suited to fill particular billets.

e. The SJA to CMC oversees the Chief Defense Counsel of the Marine Corps.

f. The SJA to CMC conducts annual inspections to ensure that Marine Corps law centers are functioning properly and efficiently.

g. The SJA to CMC serves as Rules Counsel for matters of professional responsibility involving Marine Corps judge advocates or civilian attorneys under his cognizance and reports to the JAG regarding oversight of professional responsibility matters in the Marine Corps.

h. Together with the Counsel for the Commandant, the SJA to CMC provides legal advice on Standards of Conduct and government ethics, including the outside practice of law, post-Government service employment restrictions, interaction with non-federal entities, and the permissible use of government assets and

22 Dec 2005

personnel. The SJA to CMC and Counsel for the Commandant serve as Deputy Designated Agency Ethics Officials for the Marine Corps and provide Standards of Conduct training, review public financial disclosure reports, and review and maintain confidential financial disclosure reports filed by uniformed personnel.

Dionel M. Aviles  
Under Secretary of the Navy

Distribution:

Electronic only, via Navy Directives Website

<http://neds.daps.dla.mil//>